

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

JOSEPH SMITH

CIVIL ACTION

VERSUS

NO. 09-3689

BURL CAIN, WARDEN

SECTION "J"(2)

ORDER

The Court, having considered the complaint, the record, the applicable law, the Report and Recommendation of the United States Magistrate Judge, and the failure of any party to file an objection to the Magistrate Judge's Report and Recommendation, hereby approves the Report and Recommendation of the United States Magistrate Judge and adopts it as its opinion in this matter. Therefore,

IT IS ORDERED that the petition of Joseph Smith for issuance of a writ of habeas corpus under 28 U.S.C. § 2254 be **DISMISSED WITH PREJUDICE**.

New Orleans, Louisiana, this _8th_ day of __January __, 2010


UNITED STATES DISTRICT JUDGE